

REMARKS

Claims 5 and 9-12 are amended herein. Claims 1-4 and 7-8 are canceled, without prejudice.

Claim 5 has been amended to depend from Claim 13, and Claim 9 has been amended to depend on Claim 15.

In Claim 10, the term “salt” on line 1 has been deleted and replaced with “oxide powder.” In addition, on line 4, the term “note” has been deleted and replaced with “not” in accordance with the Examiner’s suggestion on page 2 of the Office Action of September 29, 2004.

In Claim 11, line 2, the phrase “after heating” has been deleted and replaced with “in the calcining step.”

In Claim 12, the phrase “comprising heating at least three metal salts,” has been deleted.

Upon entry of the above amendments, Claims 5-6 and 9-15 will be all the claims pending in the Application.

Response to the Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 1, 2, 3, 5, 10, 11 and 12 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

As noted above, Claims 1, 2 and 3 are canceled herein. Thus, Applicants submit that the rejection of Claims 1-3 are moot.

Turning to the rejections of Claims 5 and 12, Applicants respectfully submit that one skilled in the art would understand that “non metal halide salt” means refers to a metal salt that is

not a halide. Applicants further submit that the meaning of “non metal halide salt” would be clear to one skilled in the art in light of the specification. *See, e.g.*, page 5, lines 6-9, of the Specification (“It should be noted that the above-described metal salts other than the metal halide salts may be referred to as ‘non metal halide salts’ in some cases.”). Accordingly, Applicants submit that the § 112 rejections of Claims 5 and 12 should be reconsidered and withdrawn.

With respect to the rejection of Claim 10, the Examiner asserts that the phrase “calcining the metal salts or the complex metal salts in the presence of a hydrogen halide gas” is indefinite. The Examiner states that it is not clear how this step could occur since the previous heating step transforms the salts to a complex metal oxide and no salts would be left calcine.

Applicants respectfully submit, however, that metal salts would be present after the heating step and that this fact would be understood by one skilled in the art. In the present invention, the heating step is carried out at a temperature where the transition of a metal salt material to a complex metal oxide occurs. *See* page 6 lines 21-25, in the Specification. Furthermore, the temperature at which the formation of a complex metal oxide is finished is higher than the temperature at which the transition to the complex metal oxide occurs. *See* page 7 lines 14-17, in the Specification. As a result, metal salts are present after heating step. Thus, the § 112 rejection of Claim 10 should be withdrawn since the phrase “calcining the metal salts or the complex metal salts in the presence of a hydrogen halide gas” is not indefinite.

Turning to the rejection of Claim 11, the Examiner asserts that the phrase “wherein a concentration of the hydrogen halide gas after heating is from about 0.1 vol% to about 10 vol%”

is indefinite since the heating step in Claim 10 takes place at a hydrogen halide gas concentration of not more than about 0.1 vol%. The Examiner further asserts that it is not clear how the concentration of the hydrogen halide gas could rise to about 10 vol%.

Applicants respectfully submit that one skilled in the art would have a clear measure of what Applicants regard as their invention. Claim 11, as amended, recites that “wherein a concentration of the hydrogen halide gas in the calcining step is from about 0.1 vol% to about 10 vol%.” Further, as described on page 10, line 25, to page 11, line 12, of the Specification, the concentration of hydrogen halide gas in the calcining step is preferably from about 0.1 vol% to about 10 vol%. Thus, one skilled in the art would understand that a rise in the concentration of the hydrogen halide gas occurs for the calcining step. Accordingly, Applicants submit that the § 112 rejection of Claim 11 should be reconsidered and withdrawn.

Response to the Claim Rejections under 35 U.S.C. § 103

Claims 1-3 and 6-9 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Saugusa '505. Claims 1-3 and 7 are rejected under § 103(a) as allegedly being unpatentable over Mohri '480. Claims 1 and 7-9 are rejected under § 103(a) as allegedly being unpatentable over EP 1065693.

As noted above, Claims 1-4 and 7-8 are canceled without prejudice. Thus, the rejections of Claims 1-4 and 7-8 is now moot.

With respect to the rejection of Claim 9, Applicants note that Claim 9 is dependent on Claim 13, which has not been rejected by either Saegusa '505, Mohri '480 or EP 1065693. Thus, the rejection of Claim 9 should be withdrawn.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No. 09/976,010

Q66667

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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